



DISTRICT COURT
FILED

IN THE DISTRICT COURT IN AND FOR TULSA COUNTY
STATE OF OKLAHOMA

MAY 14 2015

SALLY HOWE SMITH, COURT CLERK
STATE OF OKLA. TULSA COUNTY

MICHAEL D. MASSEY

Plaintiff,

vs.

IC BUS OF OKLAHOMA, LLC
a foreign for profit corporation,

Defendant.

CJ-2015-01860

Case No. _____

Judge _____

Linda Morrissey

PETITION

COMES NOW Michael D. Massey (hereinafter "Plaintiff"), by and through his attorneys of record, Garrett Law Center, PLLC, and brings this action against the IC Bus of Oklahoma, LLC, a foreign for profit corporation, (hereinafter "Defendant"), for violations of his constitutionally protected rights arising out of his employment.

PARTIES, JURISDICTION, AND VENUE

1. Plaintiff is a resident of Broken Arrow, Tulsa County, State of Oklahoma.
2. Defendant is a foreign corporation regularly doing business in Tulsa, Tulsa County, State of Oklahoma.
3. The incidents and occurrences that form the basis of Plaintiff's action occurred in Tulsa, Tulsa County, State of Oklahoma.
4. Plaintiff filed a charge of discrimination against the Defendant with the Equal Employment Opportunity Commission ("EEOC") complaining to the EEOC of discrimination based on his race and retaliation by his employer, the Defendant. A Notice of Right to Sue, dated February 17, 2015, was received by the Plaintiff and this Petition has been filed within

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SALLY HOWE SMITH
COURT CLERK

EXHIBIT "2"

ninety days (90) of the receipt of the Notice of Right to Sue. As such, all conditions precedent to the filing of this lawsuit have been fulfilled.

5. This Court has jurisdiction and venue is proper in Tulsa County, Oklahoma.

6. Plaintiff brings this action for damages under the Okla. Stat. tit. 25 § 1101 *et seq.*; Title VII of the Civil Rights Act of 1964; and the Equal Employment Opportunity Commission (EEOC), for discriminating against him on the basis of his race and retaliation by his employer, the Defendant.

7. Compensatory damages are sought pursuant to the Okla. Stat. tit. 25 § 1101, 1301 *et seq.*; Title VII of the Civil Rights Act of 1964; and the EEOC.

8. Punitive damages are sought pursuant to the Okla. Stat. tit. 25 § 1101, 1301 *et seq.*; Title VII of the Civil Rights Act of 1964; and the EEOC.

9. Costs and attorney's fees may be awarded pursuant to the Okla. Stat. tit. 25 § 1101, 1301 *et seq.*; Title VII of the Civil Rights Act of 1964; and the EEOC.

FACTS COMMON TO ALL CLAIMS

10. Plaintiff incorporates paragraphs 1 through 9, as if realleged.

11. Defendant hired Plaintiff as an Assembler on or about August 26, 2006.

12. Plaintiff is an African American/Black male.

13. Approximately on September 01, 2013, the Plaintiff complained to Defendant's Human Resources department ("HR") about the unfair treatment that the Plaintiff and the other minorities were being subjected to the more difficult, labor intensive jobs by their Team Leader, Robert Ewert ("Mr. Ewert").

14. The Plaintiff was offended by said treatment from Ms. Ewert and thus resulted in the Plaintiff's presentment of a complaint to HR on September 1, 2013.

15. Subsequent to the Plaintiff's complaint to HR, the Plaintiff was removed from his current position in MRB Processing, replaced by a temporary employee, and moved to a position in Matting.

16. On or about October 1, 2013, the Plaintiff applied for an Inventory Control position with the Defendant.

17. Subsequent to such application for the Inventory Control position, the Defendant was not selected for the position.

18. The employee chosen for the Inventory Control position was a Caucasian/ White female.

19. Subsequent to the Plaintiff not being selected for the Inventory Control position, Plaintiff presented a complaint to HR that he believed that he was not chosen for the position in retaliation for his original complaint to HR on September 1, 2013.

20. On or about February 13, 2014, the Plaintiff visited of Oklahoma City Area Office of the U.S. Equal Employment Opportunity Commission ("EEOC") and filled out a U.S. Equal Employment Opportunity Commission Intake Questionnaire.

21. On February 28, 2014, the Plaintiff signed the EEOC Charge of Discrimination and returned it back to the EEOC.

22. On February 17, 2015, the EEOC sent a right to sue notice to Plaintiff.

FIRST CLAIM FOR RELIEF
RETALIATION AND DISCRIMINATION ON BASIS OF RACE

23. Plaintiff incorporates paragraphs 1 through 22, as if realleged.

24. Defendant engaged in unlawful employment practices in violation of the Okla. Stat. tit. 25 § 1101, 1301 *et seq.*; Title VII of the Civil Rights Act of 1964; and the EEOC.

25. An employer may not harass or otherwise “retaliate” against an individual for filing a charge of discrimination or otherwise opposing discrimination. (the Okla. Stat. tit. 25 § 1101, 1301 *et seq.*; Title VII of the Civil Rights Act of 1964; and the EEOC.)

26. An employee is protected from coercion, intimidation, threat, harassment or interference in an employee’s exercise of their own rights.

27. The Plaintiff is an African American/Black male.

28. Approximately on September 01, 2013, the Plaintiff complained to Defendant’s Human Resources department (“HR”) about the unfair treatment that the Plaintiff and the other racial minorities were being subjected to the more difficult, labor intensive jobs by their Team Leader, Robert Ewert (“Mr. Ewert”).

29. HR did not address the Plaintiff’s complaint about the unfair treatment of him and other racial minorities by Mr. Ewert.

30. On or about October 1, 2013, the Plaintiff applied for an Inventory Control position with the Defendant.

31. Subsequent to such application for the Inventory Control position, the Defendant was not selected for the position.

32. The employee chosen for the Inventory Control position was a Caucasian/ White female with less experience and fewer qualifications than the Plaintiff.

33. Subsequent to the Plaintiff not being selected for the Inventory Control position, on or about October 10, 2013 the Plaintiff presented a complaint to HR that he believed that he was not chosen for the position in retaliation for his original complaint to HR on September 1, 2013.

34. HR did not address the Plaintiff's complaint that he believed that he was not chosen for the position in retaliation for his original complaint to HR on September 1, 2013.

35. On or about November 11, 2013, the Defendant removed the Plaintiff from his current position in MRB Processing, a position in which the Plaintiff had significant experience and qualifications in, to a job in Matting, a position which the Plaintiff had no formal training or experience in.

36. Before or subsequent to beginning the Plaintiff's newly assigned job in Matting, the Plaintiff was not properly and/or formally trained in said newly assigned position.

37. Prior to being assigned to Plaintiff's newly assigned position in Matting, two full-time employees were working in Matting, a position requiring two people to properly perform the job in a timely manner.

38. Subsequent to starting Plaintiff's newly assigned position, the Plaintiff was required to perform the two-person job in Matting with only minimal assistance from a white female employee who was put on light duty for an unknown injury.

39. On February 13, 2014, the Plaintiff presented to the Oklahoma City Area Office of the U.S. Equal Employment Opportunity Commission ("EEOC") and filled out a U.S. Equal Employment Opportunity Commission Intake Questionnaire.

40. On February 17, 2015 EEOC sent a right to sue notice to Plaintiff.

41. Plaintiff believes he was retaliated against due to his race and for complaining to the EEOC of coercion, intimidation, threat, harassment or interference in an employee's exercise of their own rights, discrimination of race.

WHEREFORE, Plaintiff prays for judgment against Defendant for:

- a. Compensatory damages for his mental anguish, pain and suffering and other non-pecuniary losses;
- b. Compensatory damages for his physical anguish, pain and suffering and other non-pecuniary losses;
- c. Punitive damages for the intentional and knowing acts of discrimination committed by Defendant's management and executives;
- d. His attorney fees and the costs and expenses of this action; and
- e. Such other relief as the Court deems just and equitable.

SECOND CLAIM FOR RELIEF
INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS

42. Plaintiff incorporates paragraphs 1 through 41, as if realleged.

43. Defendant's actions of intentional and malicious discrimination of race and retaliation leading to a change in position and denial of a promotion are extreme and outrageous and have caused severe emotional and psychological damage to the Plaintiff.

WHEREFORE, based on the foregoing, the Plaintiff prays that this Court grant him the relief sought including, but not limited to, actual and punitive damages in excess of Seventy-Five Thousand Dollars (\$75,000.00), with interest accruing from date of filing of suit, compensatory damages for mental anguish, pain and suffering and other non-pecuniary loss, compensatory damages for physical anguish, pain and suffering and other non-pecuniary loss, reasonable attorney's fees and costs, injunctive relief and all other relief deemed appropriate by this Court.

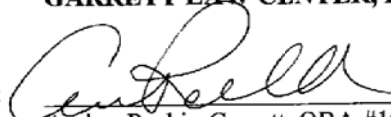
JURY DEMAND

COMES NOW, the Plaintiff, Michael Massey, and hereby demands a trial by jury to decide all issues brought forth in this Petition.

Respectfully submitted,

GARRETT LAW CENTER, PLLC

By:



Amber Peckio Garrett, OBA #19908
D. Mitchell Garrett, Jr., OBA #20704
P. O. Box 1349
Tulsa, Oklahoma 74101-1349
Telephone: (918) 895-7216
Facsimile: (918) 895-7217

ATTORNEY'S LIEN CLAIMED & JURY DEMANDED



IN THE DISTRICT COURT IN AND FOR TULSA COUNTY
STATE OF OKLAHOMA

MICHAEL D. MASSEY,

Plaintiff,

vs.

IC BUS OF OKLAHOMA, LLC
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MAY 27 2015

SUMMONS

To the above-named Defendant(s): The Corporation Company
1833 South Morgan Road
Oklahoma City, OK 73126

SALLY HOWE SMITH, COURT CLERK
STATE OF OKLA. TULSA COUNTY

You have been sued by the above-named plaintiff(s), and you are directed to file a written answer to the attached petition in the court at the above address within twenty (20) days after service of this summons upon you exclusive of the day of service. Within the same time, a copy of your answer must be delivered or mailed to the attorney for the plaintiff. Unless you answer the petition within the time stated judgment will be rendered against you with the costs of the action.

If Interrogatories and Request for Production of Documents are served with this Petition, you are directed to answer the Interrogatories and produce the documents requested within **forty-five (45) days** after service of these Interrogatories and Request for Production of Documents.

Issued this 14 day of May, 2015.

, Court Clerk

by [Signature], Deputy Court Clerk

(Seal)

Attorney(s) for Plaintiff(s):

Name: GARRETT LAW CENTER, PLLC
Address: P.O. Box 1349
Tulsa, OK 74101-1349
(918) 895-7216

This summons was served on

(Date of Service)

(Signature of person serving summons)

YOU MAY SEEK THE ADVICE OF AN ATTORNEY ON ANY MATTER CONNECTED WITH THIS SUIT OR YOUR ANSWER. SUCH ATTORNEY SHOULD BE CONSULTED IMMEDIATELY SO THAT AN ANSWER MAY BE FILED WITHIN THE TIME LIMIT STATED IN THE SUMMONS.

P

**RETURN OF SERVICE
PERSONAL SERVICE**

I Certify that I received the foregoing summons on the _____ day of _____, 2015, and that I delivered a copy of said summons with a copy of the petition attached to each of the following named defendants personally in _____ County at the address and on the date set forth opposite each name, to wit:

Name of Defendant:	Address:	Date of Service:
.....
.....
.....

FEEs

Fee for service \$ _____, Mileage \$ _____, Total \$ _____
Dated this _____ day of _____, 2015.

Process Server:

By: _____
_____ County, Oklahoma

**RETURN OF SERVICE
USUAL PLACE OF RESIDENCE**

I certify I received the foregoing summons on the day of, 2015, and that on, I served by leaving a copy of said summons with a copy of the petition attached at which is his usual place of residence, with, a person over fifteen (15) years of age who resides therein.

**RETURN OF SERVICE
CERTIFICATE OF SERVICE BY MAIL**

I certify that I mailed copies of the foregoing summons with a copy of the petition attached to the following named defendant(s) at the address shown by certified mail, addressee only, return receipt requested on the day of, 2015, and receipt thereof on the dates shown:

Name of Defendant:	Address:	Date of Service:
_____	_____	_____
_____	_____	_____
